

9:28 am, Aug 29, 2018

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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U.S. BANK TRUST N.A., AS TRUSTEE
FOR LSF9 MASTER PARTICIPATION
TRUST,

Plaintiff,

-against-

ANNMARIE KOLYER, DARRIN E.
KOYLER a/k/a DARRIN KOYLER,

Defendants.
-----X

MEMORANDUM OF
DECISION & ORDER
2:17-cv-06775 (ADS)(AYS)

APPEARANCES:

Gross Polowy LLC

Counsel for the Plaintiff

900 Merchants Concourse, Suite 412

Westbury, NY 11590

By: Stephen J. Vargas, Esq., Of Counsel.

SPATT, District Judge:

Plaintiff U.S. Bank Trust, N.A. (the “Plaintiff”) brought this action against defendants Annmarie Kolyer and Darrin E. Kolyer (collectively, the “Defendants”) pursuant to New York Real Property Actions and Proceeding Law Article 13, to foreclose a mortgage.

On January 10, 2018, the Clerk of the Court noted the default of the Defendants.

On January 22, 2018, the Plaintiff moved for default judgment against the Defendants, and the Court referred the motion to United States Magistrate Judge Anne Y. Shields the following day, January 23, 2018.

On August 2, 2018, Judge Shields issued a Report and Recommendation (the “R&R”) recommending that the motion be granted, stating:

For the reasons set forth herein, the Court recommends that Plaintiff's motion for default judgment be granted and that Plaintiff be awarded a total of \$265,436.39, per diem pre-judgment interest in the amount of \$22.67 per day until judgment is entered, and post-judgment interest pursuant to 28 U.S.C. § 1961(a). The Court further recommends that an Order similar to Plaintiff's Proposed Judgment of Foreclosure and Sale, but consistent with the instant Report and Recommendation, be entered and that a referee be appointed to effectuate the sale.

R&R at 14.

The Plaintiff filed proof of service on August 14, 2018.

It has been more than fourteen days since the service of the R&R, and the parties have not filed objections.

As such, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result. *See Coburn v. P.N. Fin.*, No. 13-CV-1006 (ADS) (SIL), 2015 WL 520346, at *1 (E.D.N.Y. Feb. 9, 2015) (reviewing Report and Recommendation without objections for clear error).

Accordingly, the R&R is adopted in its entirety. The Plaintiff's motion for default judgment is granted. The Plaintiff is awarded damages in the amounts explained in the R&R, and is directed to file a revised Proposed Judgment of Foreclosure and Sale consistent with the R&R.

SO ORDERED.

Dated: Central Islip, New York

August 29, 2018

/s/ Arthur D. Spatt

ARTHUR D. SPATT

United States District Judge